

## **REMARKS**

This is a full and timely response to the outstanding non-final Office Action mailed June 15, 2007. Upon entry of this response, claims 1-19 are pending in the present application. Claims 1-19 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as allegedly being unpatentable over the claims set forth in U.S. Patent Application No. 10/507,222. Claims 1-19 are rejected under 35 U.S.C. §102(a) as allegedly being anticipated by *Cartigny et al.* (FR 2833476, hereinafter "*Cartigny*"). Furthermore, claims 1-19 are rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over *Chen* (U.S. Pat. No. 6,257,124). Applicants respectfully request consideration of the following remarks contained herein.

### **I. Response to Double Patenting Rejection**

On page 2, the Office Action indicates that claims 1-19 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as allegedly being unpatentable over the claims set forth in U.S. Patent Application No. 10/507,222. The Applicants respectfully disagree. The claims of the present application are directed to a removable module while the claims of the '222 application are directed to a specific device for controlling the locking/unlocking of the lid, which has nothing in common with the implementation of a removable module. Applicants would like to also point out that the claims of the '222 application have been allowed but emphasize that a terminal disclaimer is not warranted in the instant application. It should be noted that the two applications share a common inventor, and are owned by the same entity. The two applications deal with distinct subject matter designed by the common assignee

approximately two years later to address different problems found in prior art devices. As this is a provisional rejection, Applicants will submit a terminal disclaimer upon indication of otherwise allowable subject matter (assuming the terminal disclaimer is still needed at that point).

## **II. Response to Claim Rejections Under 35 U.S.C. § 102**

It is axiomatic that “[a]nticipation requires the disclosure in a single prior art reference of each element of the claim under consideration.” *W. L. Gore & Associates, Inc. v. Garlock, Inc.*, 721 F.2d 1540, 1554, 220 USPQ 303, 313 (Fed. Cir. 1983). Therefore, every claimed feature of the claimed invention must be represented in the applied reference to constitute a proper rejection under 35 U.S.C. § 102. Claims 1-19 are rejected under 35 U.S.C. §102(a) as allegedly being anticipated by *Cartigny*. Title 35, Section 102(a) recites that “A person shall be entitled to a patent unless – the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country before the invention thereof by the applicant for patent, or ...”. The Present application shares a common inventor and is commonly owned by the same assignee. Thus the Applicants may be able to address this rejection with an Affidavit under Section 1.131 or 1.132. However, for the reasons set forth below, Applicants traverse these rejections.

### **Independent Claim 1 is Patentable Over Cartigny**

As an initial matter, although the Applicants have carefully reviewed the Office Action, the Applicants have not been able to clearly identify the basis for the §102 rejection to claims 1-19.

“When a reference is complex or shows or describes inventions other than that claimed by the Applicant, the particular part relied on must be designated as nearly as practicable. The pertinence of each reference, if not apparent, must be clearly explained on each rejected claim specified.” 37 C.F.R. 1.104.

As to the §102 rejection of claims 1-19 as allegedly anticipated by the *Cartigny* reference, the Office Action alleges only that “*the features of the instantly rejected claims are structurally met by the reference.*” (Office Action, pg. 3). The Office Action fails to provide any further explanation about the relevance of the *Cartigny* reference with respect to the elements of claims 1-19. That is, the Office Action does not describe with sufficient clarity what components of the *Cartigny* reference are considered to correspond to each of the elements of the claimed appliance.

The goal of examination is to clearly articulate any rejection early in the prosecution process so that the Applicant has the opportunity to provide evidence of patentability and otherwise reply completely at the earliest opportunity. MPEP § 706. Thus, the MPEP requires that the Office Action properly communicate the basis for a rejection so that the Applicant may be given a fair opportunity to reply. The MPEP further requires that where a claim is refused for any reason relating to the merits thereof, the ground of rejection should be fully and clearly stated (see MPEP § 707.07(d)).

Accordingly, Applicants respectfully submit that the Office Action has not met the requirements of the MPEP. Thus, should the Examiner disagree with the Applicants’ position presented below in response to the Office Action rejection of claims 1-19, the undersigned respectfully submits that any ensuing Office Action must provide more

detail and analysis. In this regard, an Office Action may not make general allegations, but must point to specific language in the text or specific teachings of the drawings as to each element of the claim to set forth a *prima facie* rejection.

Regardless, Applicants submit that claims 1-19 are allowable for at least the reason that the *Cartigny* reference does not teach each and every feature of claims 1-19, as discussed below.

**Independent Claim 1 is Patentable over Cartigny**

Applicants respectfully submit that independent claim 1 patently defines over *Cartigny* for at least the reason that *Cartigny* fails to disclose, teach or suggest the features emphasized below in claim 1.

Claim 1 recites (emphasis added):

1. An appliance for cooking food under pressure, the appliance comprising:  
a vessel and a lid for being fitted and locked on said vessel in order to form a leaktight cooking enclosure;  
at least one jaw for locking the lid relative to the vessel;  
means for driving said at least one jaw between a locking position and an unlocking position; and  
**a module for fitting on and releasably securing to the lid**, said module including a device for controlling locking and unlocking of the lid relative to the vessel.

As discussed above, the Office Action fails to point out with particularity how the cited *Cartigny* reference anticipates the elements in claims 1-19. Nevertheless, Applicants point out that *Cartigny* fails to teach of “**a module for fitting on and releasably securing to the lid.**” At most, *Cartigny* teaches of a pressure cooker with lightened jaws and a conventional control member “such as a button, knob, handle, or the like” (See page 6, lines 17-18). However, *Cartigny* fails to teach that such

conventional control member is releasably secured to the lid of the pressure cooker. Thus, contrary to the position taken by the Office, the prior art apparatus does not teach all the structural limitations of the claim. The claims are indeed distinguished in terms of structure. Accordingly, Applicants respectfully submit that independent claim 1 patentably defines over *Cartigny* for at least the reason that *Cartigny* fails to disclose, teach or suggest the highlighted features in claim 1 above. Should the Examiner disagree, the Applicants request that the Examiner provide further details in an ensuing non-final Office Action.

**Dependent Claims 2-20 are Patentable**

Applicants submit that dependent claims 2-20 are allowable for at least the reason that these claims depend from an allowable independent claim. See, e.g., *In re Fine*, 837 F. 2d 1071 (Fed. Cir. 1988).

**III. Response to Claim Rejections Under 35 U.S.C. § 103**

The USPTO has the burden under section 103 to establish a *prima facie* case of obviousness according to the factual inquiries expressed in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966). The four factual inquiries, also expressed in MPEP §2141, are as follows:

- (A) Determining the scope and contents of the prior art;
- (B) Ascertaining the differences between the prior art and the claims in issue;
- (C) Resolving the level of ordinary skill in the pertinent art; and
- (D) Evaluating evidence of secondary considerations.

Claims 1-19 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over *Chen*. For at least the reasons set forth below, Applicants traverse these rejections.

**Independent Claim 1 is Patentable Over Chen**

Applicants respectfully submit that independent claim 1 patentably defines over *Chen* for at least the reason that the combination fails to disclose, teach or suggest the features emphasized below in claim 1.

Claim 1 recites:

1. An appliance for cooking food under pressure, the appliance comprising:  
a vessel and a lid for being fitted and locked on said vessel in order to form a leaktight cooking enclosure;  
at least one jaw for locking the lid relative to the vessel;  
means for driving said at least one jaw between a locking position and an unlocking position; and  
**a module for fitting on and releasably securing to the lid**, said module including a device for controlling locking and unlocking of the lid relative to the vessel.

In alleging that *Chen* teaches of a module that is releasably secured to the lid, the Office Action merely refers to FIG. 2 in the *Chen* reference. (Office Action, page 4). However, the Office Action appears to admit that the *Chen* reference fails to teach this feature as the Office Action then puts forth the following reasoning:

"It would have been obvious to one having ordinary skill in the art at the time the invention was made to have made the mechanical device one piece or multiple pieces (i.e., releasable, releasably, etc.), since it has been held that forming in two pieces an article which has formerly been formed in one piece involves only routine skill in the art."

The Office Action further alleges the following (emphasis added):

"The precise arrangement of the device for controlling is deemed a matter of obvious design choice to a person of ordinary skill in the art, since applicant has not disclosed that such a design choice solves any stated problem or is for any particular purpose and it appears that the invention would perform equally well."

Applicants respectfully disagree with the reasoning put forth by the Examiner and submits that the statements (that forming in two pieces an article which has formerly been formed in one piece involves only routine skill in the art and that the precise arrangement is an obvious design choice) are merely conclusory in nature.

First, Applicants submit that "*forming [an article] in two pieces*" does not inherently make an article releasable in nature. For example, a mechanical device comprising two pieces that are welded together would not be interpreted as being releasable in nature. Furthermore, as set forth by the Board of Patent Appeals and Interferences, the statement that something is a design choice is a conclusion and not a reason. *Ex Parte Gerrett*, 1986, Pat App. Lexus 8 (Bd. Pat. App. Intrf. 1986). Further, the assertion that something is a design choice is insufficient to establish a "suggestion" in the art for the claimed elements. See, e.g., *Northern Telecom, Inc. v. Data Point Corp.*, 15 U.S.P.Q. 2d 1321, 1323 (Fed. Cir. 1990). Applicants also respectfully submit that the Examiner's *own assessment* that "it appears that the invention would perform equally well" is also conclusory in nature.

Applicants submit that contrary to the Examiner's contention, the claimed design in claim 1 does indeed address various technical problems, as mentioned explicitly in the specification. The novel design allows the frequent use of a dishwasher for washing the pressure cooker. The design also simplifies the industrial manufacturing of the

pressure cooker by making it possible to distinguish cookers at the end of the industrial process in an acceptable length of time.

Accordingly, Applicants respectfully submit that independent claim 1 patentably defines over *Chen* for at least the reason that *Chen* fails to disclose, teach or suggest the highlighted features in claim 1 above.

#### **IV. Independent Claim 21**

Applicants note that the current Office Action is completely silent with respect to independent claim 21, which has been added in the prior response by Applicants. As such, Applicants are uncertain as to the status of this claim. Applicants submit that any ensuing Office Action that addresses claim 21 should be made non-final. Applicants submit that independent claim 21 is patentable over the cited art of record for at least the reason that the cited art of record fails to teach the limitation, “the module configured to fit on and releasably secure to the lid,” as recited in claim 21.

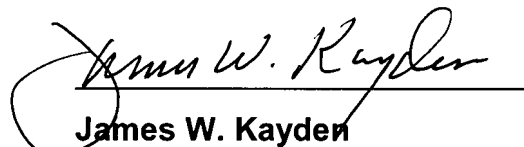


**CONCLUSION**

Applicants respectfully submit that all pending claims are in condition for allowance. Favorable reconsideration and allowance of the present application and all pending claims are hereby courteously requested. If, in the opinion of the Examiner, a telephone conference would expedite the examination of this matter, the Examiner is invited to call the undersigned attorney at (770) 933-9500.

No fee is believed to be due in connection with this response to Office Action. If, however, any fee is believed to be due, you are hereby authorized to charge any such fee to deposit account No. 20-0778.

Respectfully submitted,

  
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